

### **REMARKS**

Claims 1-4, 6, 8-16, 18, 20-37, and 39-43 are pending. Applicants express appreciation to the Examiner for withdrawal of the previous rejection over Thong et al. under 35 U.S.C. 102(b).

Claims 1 and 2 are objected to as being redundant. Applicants respectfully traverse. It would be apparent to a skilled artisan that a therapy may be enabled and then delivered upon being enabled, or a therapy may be enabled and delivered after a period of time, e.g. the enabled therapy may be scheduled after detecting additional signals indicating the need for therapy. Claim 2 further limits claim 1 by indicating that the enabled therapy is delivered when the therapy is enabled. Applicants respectfully request withdrawal of the objection.

Claims 1-31 stand rejected under 35 U.S.C. 102(b) as being anticipated by Cohen (US 5,156,148). Claims 36-43 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen in view of Thong. In the previous response, Applicants articulated distinctions between the present claims and the references cited thus indicating that the references were insufficient to anticipate the claims or render the claims obvious. As the Examiner is well aware, in order for a reference to anticipate a claim, that reference must teach each element of the properly construed claim. Contrary to the Examiner's assertion, Cohen fails to teach, among other things, enabling the therapy when (atrial fibrillation is detected and) hemodynamic compromise is present and disabling therapy when (atrial fibrillation is detected and) hemodynamic compromise is not present, e.g. as in pending claim 1.

Cohen discloses the "output signals and/or drug(s) and/or the pumping assist are provided to effect termination of , or at least treat in an effective manner, singly or in combination stable SVT, unstable SVT, stable VT, unstable VT, stable atrial fibrillation, unstable atrial fibrillation, ventricular fibrillation..." (col 9, lines 55-60). As such, Cohen teaches treating both stable and unstable forms of detected arrhythmias. No where does Cohen teach, suggest or imply that a therapy is disabled after detecting atrial fibrillation and determining hemodynamic

compromise is not present. Thong fails to remedy this deficiency. Accordingly, Applicants submit that the rejections are improper and should be withdrawn.

The Examiner has interpreted producing an output signal to a malfunction correction means when a stable or unstable atrial fibrillation malfunction is detected and not producing an output signal to a malfunction correction means when an atrial fibrillation malfunction is not detected to be synonymous with enabling the therapy when hemodynamic compromise is present and disabling therapy when hemodynamic compromise is not present. Applicants respectfully traverse. Atrial fibrillation may be present with or without hemodynamic compromise, and hemodynamic compromise may be present with or without atrial fibrillation. As such, providing an output signal when atrial fibrillation is detected is not synonymous with enabling therapy when hemodynamic compromise is present since hemodynamic compromise may not be present with the atrial fibrillation. Furthermore, the notion that not producing an output signal when atrial fibrillation is not detected is the same as disabling a therapy when atrial fibrillation is detected and hemodynamic compromise is not present would be an improper reading of the claim language.

Applicants note that the Examiner has not provided evidence supporting the rejection of claims 12-16 over Cohen since, as indicated by the Examiner, Cohen has not disclosed the limitations set forth in claims 12-16.

Applicants respectfully assert that the present claims are in condition for allowance and notice of the same is earnestly solicited. Should any issues remain outstanding, the Examiner is respectfully urged to telephone the undersigned to expedite prosecution.

Respectfully submitted,

January 8, 2007  
Date

/Daniel G. Chapik/  
Daniel G. Chapik  
Reg. 43,424  
Telephone: (763) 514-3066  
Customer No. 27581